

IB-04-439

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DEC 17 2004

Federal Communications Commission
Office of Secretary

December 16, 2004

BY HAND

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: *Supplemental Submission*
SAT-MS-20040210-00027
Request for Declaratory Ruling

Dear Ms. Dortch:

This letter is submitted on behalf of Inmarsat Group Holdings Limited ("Inmarsat") to supplement its November 15, 2004 Request for Declaratory Ruling in this matter (the "Request").

In the Request, Inmarsat addressed, among other things, the requirement in Section 621(5)(F)(i) of the ORBIT Act that "no intergovernmental organization has...more than a minimal ownership interest in a successor entity of Inmarsat."¹ Namely, Inmarsat explained that:

- the International Mobile Satellite Organization ("IMSO") is the only intergovernmental organization that has any ownership interest in Inmarsat;
- IMSO is a residual entity left in place by the Inmarsat Assembly of Parties when the decision to privatize Inmarsat was made in early 1999;
- IMSO's sole involvement in Inmarsat is the oversight of certain public services, mainly the continued provision of space segment capacity for the global maritime distress and safety system ("GMDSS"); and

¹ ORBIT Act at § 621(5)(F)(i)(III).

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- IMISO's ownership in Inmarsat is limited to a "special share" of Inmarsat Ventures Limited that confers neither any normal voting rights nor any rights to participate in Inmarsat's profits; it only gives IMISO the right to veto any proposals to amend those provisions of the Memorandum of Association or Articles of Association of Inmarsat Ventures Limited that relate to Inmarsat's public service obligations, especially GMDSS.

Inmarsat hereby confirms that the nature and extent of IMISO's limited ownership interest in Inmarsat remain as they were in 2001 when the Commission determined that the sole ownership interest in Inmarsat held by IMISO constitutes "minimal ownership" by an intergovernmental organization within the meaning of the Orbit Act.² Moreover, based on its review of distress alert data from the Distress Alert Quality Control System (DAQCS), Inmarsat has determined that GMDSS-related traffic on the Inmarsat system accounts for less than 1% of Inmarsat's total revenues for the twelve months ended October 31, 2004.

Respectfully submitted,

Inmarsat Group Holdings Limited

By: 

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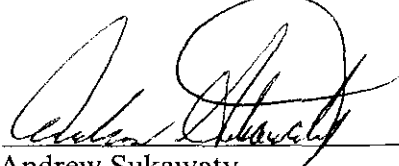
² See In the Matter of Comsat Corporation d/b/a Comsat Mobile Communications, *et al.*, 16 FCC Rcd 21,661, 21,686 (2001).

CERTIFICATION OF INMARSAT GROUP HOLDINGS LIMITED

I, Andrew Sukawaty, Chairman and Chief Executive Officer for Inmarsat Group Holdings Limited (together with its subsidiaries, "Inmarsat"), declare under penalty of perjury as follows:

- (i) Inmarsat has achieved substantial dilution of the aggregate amount of former signatory financial interest in Inmarsat;
- (ii) Any signatories or former signatories that retain a financial interest in Inmarsat do not possess, together or individually, effective control of Inmarsat;
- (iii) No intergovernmental organization has more than a minimal ownership interest in Inmarsat; and,
- (iv) I have read Inmarsat's November 15, 2004 Request for Declaratory Ruling and the Attachments thereto, as supplemented by the foregoing letter dated December 16, 2004. The representations contained therein are true and correct.

Inmarsat Group Holdings Limited

By: 
Andrew Sukawaty
Chairman and Chief Executive Officer

Executed on: December 16, 2004



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
445 TWELFTH STREET, S.W.
WASHINGTON, D.C. 20554

News media information 202/418-0500 Fax-On-Demand 202/418-2830 Internet: <http://www.fcc.gov> <ftp.fcc.gov>

DA 04-xxxx

Released: December xx, 2004

**Inmarsat Group Holdings Limited Files Certification and Petition for Declaratory Ruling
Pursuant to Section 621(5)(F) of the Open-Market Reorganization for the
Betterment of International Telecommunications Act,
as amended (the "ORBIT Act")**

**PLEADING CYCLE ESTABLISHED
IB Docket No. 04-xxx**

Comments Due: January 20, 2005
Replies Due: February 5, 2005

On November 15, 2004 and December 16, 2004, Inmarsat Group Holdings Limited, the ultimate parent company of Inmarsat Ventures Limited (together with its subsidiaries, "Inmarsat"), filed with the Commission, a Certification and Request for Declaratory Ruling, along with a supplemental submission,¹ asking that the Commission find that Inmarsat has met the privatization criteria under the Open-Market Reorganization for the Betterment of International Telecommunications Act, as amended (the "ORBIT Act").² Under the certification process set forth in Section 621(5)(F) of the ORBIT Act,³ Inmarsat may satisfy the ORBIT Act's privatization criteria under Section 621 if it certifies to the Commission that (I) Inmarsat has achieved substantial dilution of the aggregate amount of signatory and former signatory financial interest in Inmarsat,⁴ (II) any signatories or former signatories that retain a financial interest in Inmarsat do not possess, together or individually, effective control of Inmarsat, and (III) no intergovernmental organization has more than a minimal ownership interest in Inmarsat.⁵ The

¹ See Certification and Request for Declaratory Ruling filed by Inmarsat Group Holdings Limited pursuant to Section 621(5)(F) of the Open-Market Reorganization for the Betterment of International Telecommunications Act, as amended (the "ORBIT Act"), including Attachments A-F, with the Secretary, Federal Communications Commission, dated Nov. 15, 2004 ("*Request for Declaratory Ruling*"). Inmarsat made a supplemental submission and certification filing with the Secretary, Federal Communications Commission, dated Dec. 16, 2004 ("*Supplemental Filing*").

² See Title VI of the Communications Satellite Act of 1962, as amended, 47 U.S.C. §§ 701 *et seq.*, which was added by the Open-Market Reorganization for the Betterment of International Telecommunications Act, Pub. Law 106-180, 114 Stat. 48 (2000), most recently amended by Pub. Law 108-371, 118 Stat. 1752 (2004) (herein, "ORBIT Act"). The recent amendment to the ORBIT Act was signed into law on October 25, 2004, modifying the requirements of Section 621(5) by adding new subsections (F) and (G). See ORBIT Act, §§ 621(5)(F), 621(5)(G).

³ ORBIT Act, § 621(5)(F).

⁴ The term "substantial dilution" is defined under the amended ORBIT Act to mean that a majority of the financial interests in Inmarsat are no longer held or controlled, directly or indirectly, by signatories or former signatories. See ORBIT Act, § 621(5)(G).

⁵ See ORBIT Act, §§ 621(5)(F)(i)(I),(II) and (III).

Certification submitted by Inmarsat states that it has met these requirements.⁶

In addition, the ORBIT Act requires that Inmarsat provide financial and other information to the Commission as the Commission may require to verify such certification.⁷ In its Request for Declaratory Ruling, Inmarsat provides financial and other information including an organizational chart of Inmarsat's capitalization and corporate structure, a list of shareholders and holdings per shareholder, a table of changes in Inmarsat shares by former signatories since privatization in 1999, a list of Inmarsat debt holders, the shareholders agreement, and the Article of Association of Inmarsat. In its Supplemental Filing, Inmarsat provides further information about the ownership interest of the International Mobile Satellite Organizations ("IMSO"), the only intergovernmental organizations with an ownership interest in Inmarsat. Based on its Request for Declaratory Ruling and the attached financial and other information, along with the supplemental submission, and its Certification that each of the conditions under the ORBIT Act has been met, Inmarsat requests that the Commission find that it is in compliance with such certification and that it has met the final ORBIT Act criterion.

Under the ORBIT Act, the Commission must determine, after notice and comment, whether Inmarsat is in compliance with such a certification.⁸ Thus, we initiate this proceeding to solicit comment on Inmarsat's Certification and Request for Declaratory Ruling and supplemental submission.⁹ Interested parties may file comments no later than **January 20, 2005**. Replies to such comments must be filed no later than **February 4, 2005**. All filings concerning matters referenced to in this Public Notice should refer to **IB Docket No. 04-xxx**.

Under the Commission's current procedures for the submission of filings and other documents,¹⁰ submissions in this matter may be filed electronically (*i.e.*, though ECFS) or by hand delivery to the Commission's Massachusetts Avenue location.

- **If filed by ECFS,**¹¹ comments shall be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. In completing the transmittal screen, commenters should

⁶ See Supplemental Filing, attached Certification.

⁷ ORBIT Act, §§ 621(5)(F)(ii).

⁸ ORBIT Act, §§ 621(5)(F)(iii).

⁹ Inmarsat previously submitted a letter to the Commission on February 10, 2004, detailing its efforts to satisfy the requirements set forth in Sections 621(2) and 621(5)(A)(ii) of the ORBIT Act to conduct an initial public offering (IPO) prior to June 30, 2004. Inmarsat's U.S. authorizations are conditioned "on Inmarsat conducting an IPO consistent with sections 621(2) and 621(5)(A)(ii) of the Orbit Act." See Comsat Corporation d/b/a Comsat Mobile Communications, et al., *Memorandum Opinion, Order and Authorization*, 16 FCC Rcd. 21661 (2001). The Commission assigned File No. SAT-MS-20040210-00027 to Inmarsat's February 10, 2004, filing and placed it on public notice. See Report No. SAT-00197 (March 5, 2004). Although the need to meet the IPO requirements under Sections 621(2) and 621(5)(A)(ii) of the ORBIT Act is no longer necessary if Inmarsat is found to have complied with the certification process under 621(5)(F), until the Commission makes such a finding, the proceeding in File No. SAT-MS-20040210-00027 remains open. Because the record in File No. SAT-MS-20040210-00027 is relevant to issues concerning the ownership of Inmarsat, parties may also rely on information submitted in that record when submitting comments in this proceeding.

¹⁰ See Implementation of Interim Electronic Filing Procedures for Certain Commission Filings, *Order*, 16 FCC Rcd. 21,483 (2001); see also FCC Announces a New Filing Location for Paper Documents and a New Fax Number for General Correspondence, *Public Notice*, 16 FCC Rcd. 22,165 (2001); Reminder: Filing Locations for Paper Documents and Instructions for Mailing Electronic Media, *Public Notice*, 18 FCC Rcd. 16,705 (2003).

¹¹ See Electronic Filing of Documents in Rulemaking Proceedings, GC Docket No. 97-113, *Report and*

include their full name, Postal Service mailing address, and the applicable docket number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

- **If filed by paper**, the original and four copies of each filing must be filed by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, S.W., Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

One copy of each pleading must be delivered electronically, by e-mail or facsimile, or if delivered as paper copy, by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (according to the procedures set forth above for paper filings), to: (1) the Commission's duplicating contractor, Best Copy and Printing, Inc., at fcc@bcpiweb.com or (202) 488-5563 (facsimile); (2) JoAnn Lucanik, Satellite Division, International Bureau, at JoAnn.Lucanik@fcc.gov, or (202) 418-0748 (facsimile); (3) Marilyn Simon, Satellite Division, International Bureau, at Marilyn.Simon@fcc.gov, or (202) 418-0748 (facsimile); (4) Stephen Duall, Satellite Division, International Bureau, at Stephen.Duall@fcc.gov, or (202) 418-0748 (facsimile); (5) Neil Dellar, Office of General Counsel, at Neil.Dellar@fcc.gov, or (202) 418-1234 (facsimile).

Copies of the applications and any subsequently-filed documents in this matter may be obtained from Best Copy and Printing, Inc., in person at 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, via telephone at (202) 488-5300, via facsimile at (202) 488-5563, or via e-mail at fcc@bcpiweb.com. The applications and any associated documents are also available for public inspection and copying during normal reference room hours at the following Commission office: FCC Reference Information Center, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. The applications are also available electronically through the Commission's ECFS, which may be accessed on the Commission's Internet website at <http://www.fcc.gov>. Alternate formats of this public notice (computer diskette, large print, audio recording, and Braille) are available to persons with disabilities by contacting Brian Millin at (202) 418-7426 (voice), (202) 418-7365 (TTY), or send an e-mail to access@fcc.gov.

For further information, contact JoAnn Lucanik, Satellite Division, International Bureau, at (202) 418-0719 or Stephen Duall, Satellite Division, International Bureau, at (202) 418-0719.

-FCC-

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November 15, 2004

BY HAND

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

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Federal Communications Commission
Office of the Secretary

Re: SAT-MS-20040210-00027
Request for Declaratory Ruling

Dear Ms. Dortch:

Inmarsat Group Holdings Limited, the ultimate parent company of Inmarsat Ventures Limited (together with its subsidiaries, "Inmarsat"), hereby submits this Request for Declaratory Ruling with respect to the attached certification that Inmarsat has satisfied Section 621(5)(F)(i) of the Open-Market Reorganization for the Betterment of International Telecommunications Act (the "ORBIT Act" or the "Act").¹ On February 10, 2004, Inmarsat submitted a letter to the Commission detailing its efforts to satisfy the initial public offering ("IPO") requirement set forth in Sections 621(2) and 621(5)(A)(ii) of the ORBIT Act. At the time, the IPO requirement was the sole remaining criterion that Inmarsat needed to meet under the ORBIT Act.² However, a recent amendment to the ORBIT Act now obviates the need to meet that criterion and also moots the need to resolve the issues that certain entities raised with Inmarsat's prior showing. Instead, Inmarsat is able to satisfy the remaining criterion through an alternative means – a new certification process.

In accordance with this new certification process, Inmarsat may certify to the Commission that (i) Inmarsat has achieved substantial dilution of the aggregate amount of

¹ ORBIT Act, Pub. L. No. 106-180, 115 Stat. 48 (2000), as amended by Pub. L. No. 108-371, 118 Stat. 1752 (2004) (codified as amended in various sections of 47 U.S.C.).

² See *In the Matter of Comsat Corporation d/b/a Comsat Mobile Communications, et al.*, 16 FCC Rcd 21,661, 21,694, 21,712 (¶¶ 58, 110) (2001) (the "Market Access Order").

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signatory and former signatory financial interest in Inmarsat, (ii) any signatories or former signatories that retain a financial interest in Inmarsat do not possess, together or individually, effective control of Inmarsat, and (iii) no intergovernmental organization has more than a minimal ownership interest in Inmarsat.³ Enclosed is Inmarsat's certification that each of those conditions has been met, which Inmarsat submits along with this Request for Declaratory Ruling and the attached financial and other information, in fulfillment of the certification process. Moreover, Inmarsat respectfully requests that the Commission find that Inmarsat is in compliance with such certification and that it has met the final ORBIT Act criterion.

I. Background and Summary

The business of Inmarsat was transferred from an inter-governmental organization ("IGO") to a private corporation on April 15, 1999. The satellite assets and operations of the IGO were transferred into a new company, Inmarsat Holdings Ltd., headquartered in London, England and organized under the laws of England and Wales, which subsequently changed its name to Inmarsat Ventures.⁴ Subsequent to the privatization, several resellers of Inmarsat's services sought authorization from the Commission to provide service in the United States. In October 2001, the Commission released the *Market Access Order* in which it found that "Inmarsat's privatization is consistent with the non-IPO criteria specified in Sections 621 and 624 of the [ORBIT Act]" and that "the use of space segment operated by Inmarsat for services to, from, or within the United States will not harm competition in the telecommunications market of the United States."⁵ In granting those authorizations, the Commission conditioned its grant on a future Commission finding that "Inmarsat has conducted an IPO under Sections 621(2) and 621(5)(A)(ii) of the ORBIT Act."⁶ To this end, the Order directed Inmarsat to "file with the Commission within 30 days after conduct of its IPO a demonstration that the IPO is in compliance with Section 621(2) and 621(5)(A)(ii) of the ORBIT Act."⁷ Inmarsat made such a filing on February 10, 2004, which has not yet been acted on. As described below, that submission has been mooted by subsequent legislation.

³ As used herein, "signatories" has the same definition as that set forth in Section 681(a)(3) of the ORBIT Act.

⁴ Inmarsat Ventures was registered in the U.K. as a "plc," a public limited company, in anticipation of a public offering of securities. See *Market Access Order* at 21,672 (¶ 8). As part of a U.K. court-approved takeover arrangement described below, and because Inmarsat Ventures became a wholly-owned subsidiary of Inmarsat Investments Limited, it was re-registered as Inmarsat Ventures Limited, a private company, effective as of December 17, 2003. Inmarsat Finance plc, an indirect, wholly-owned finance subsidiary of Inmarsat Group Holdings Limited, was identified instead as the Inmarsat entity to issue public securities as part of the takeover transaction.

⁵ *Id.* at 21,711 (¶ 109).

⁶ *Id.* at 21,712 (¶ 110).

⁷ *Id.* (¶ 111).

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A. Amendment to the ORBIT Act

On October 25, 2004, President George W. Bush signed into law an amendment to the ORBIT Act modifying the requirements of Section 621(5). Pursuant to newly added Sections 621(5)(F) and (G), Inmarsat no longer needs to have conducted an IPO. Instead, these new provisions of the ORBIT Act specify that Inmarsat alternatively may comply with a new certification process. In particular, the ORBIT Act now provides:

(F) Notwithstanding subparagraphs (A) and (B), a successor entity may be deemed a national corporation and may forgo an initial public offering and public securities listing and still achieve the purposes of this section if--

(i) the successor entity certifies to the Commission that--

(I) the successor entity has achieved substantial dilution of the aggregate amount of signatory or former signatory financial interest in such entity;

(II) any signatories and former signatories that retain a financial interest in such successor entity do not possess, together or individually, effective control of such successor entity; and

(III) no intergovernmental organization has any ownership interest in a successor entity of INTELSAT or more than a minimal ownership interest in a successor entity of Inmarsat;

(ii) the successor entity provides such financial and other information to the Commission as the Commission may require to verify such certification; and

(iii) the Commission determines, after notice and comment, that the successor entity is in compliance with such certification.

(G) For purposes of subparagraph (F), the term 'substantial dilution' means that a majority of the financial interests in the successor entity is no longer held or controlled, directly or indirectly, by signatories or former signatories.⁸

This Request for Declaratory Ruling and the attached certification and other information provide the financial and other data necessary to support the conclusion that the requirements of Section 621(5)(F) have been duly met.

B. Description of Inmarsat's Current Ownership

On December 17, 2003, a majority of the equity interests in Inmarsat were acquired by new, non-signatory shareholders in a U.K. court-approved takeover arrangement.

⁸ ORBIT Act at §§ 621(5)(F), 621(5)(G).

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Pursuant to those transactions (the "Takeover"), funds advised by Apax Partners, a leading advisor of private equity funds in the United Kingdom, United States and Western Europe ("Apax Partners"), and funds advised by Permira, a leading European private equity firm ("Permira"), acquired a combined ownership interest of over 50% in the newly-formed Inmarsat Group Holdings Limited ("Inmarsat Group Holdings").⁹ Inmarsat Group Holdings is the ultimate parent company of a group of holding and operating companies doing business under the Inmarsat name.

As a result of the Takeover and the subsequent issuance of shares to an Inmarsat employee benefit trust, some current or previous directors, officers and employees, and an employee benefit trust, hold a 5.70% ownership interest in Inmarsat Group Holdings.¹⁰ The funds advised by Apax Partners and funds advised by Permira now hold a 51.75% ownership interest in Inmarsat Group Holdings.¹¹ Thus, 57.46% of the ownership of Inmarsat is now held by new, non-signatory shareholders. The remaining 42.54% ownership interest is held by former signatories. Of the 85 former signatories, only 15 retain an ongoing ownership interest in Inmarsat.¹² Telenor Satellite Services AS ("Telenor"), COMSAT Investments, Inc. ("COMSAT"), and KDDI Corporation ("KDDI"), chose to reinvest in Inmarsat's continuing business. They hold 14.95%, 13.96%, and 7.55%, respectively, of the shares of Inmarsat Group Holdings. Twelve other former signatories hold an aggregate 6.08% ownership interest in Inmarsat, with the largest shareholder of those twelve retaining less than a 2.50% interest.

II. Inmarsat Satisfies the Requirements of Section 621(5)(F)

A. Substantial Dilution of the Aggregate Amount of Signatory and Former Signatory Financial Interest Has Occurred

Inmarsat has achieved "substantial dilution of the aggregate amount of signatory and former signatory financial interest" in Inmarsat, as defined in Sections 621(5)(F) and 621(5)(G) of the ORBIT Act. The ORBIT Act provides that "the term 'substantial dilution' means that a majority of the financial interests in the successor entity is no longer held or

⁹ Investors in funds advised by Apax Partners comprise public and corporate pension funds, endowments and other institutions. Investors in funds advised by Permira are comprised principally of public and corporate pension funds and other institutions. As described more fully herein, neither the funds advised by Apax Partners nor the funds advised by Permira are affiliated with an Inmarsat signatory or former signatory.

¹⁰ Certain former directors and certain current employees also hold, in the aggregate, an interest of approximately 0.01%.

¹¹ The issuance of shares to this trust diluted the collective holdings of the funds advised by Apax Partners and the funds advised by Permira. Thus, this 51.75% interest is 0.53% lower than that previously reported.

¹² Two prior owners who were not signatories chose not to reinvest: Cable & Wireless UK and Hong Kong Telekom.

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controlled, directly or indirectly, by signatories or former signatories.”¹³ Thus, whether this provision is satisfied is determined by taking a “snapshot” of the financial structure of Inmarsat as of today, to determine whether *entities other than signatories or former signatories* (“Non-signatories”) hold over 50% of the financial interests in Inmarsat.

The term “financial interest” is not defined in the ORBIT Act. Thus, it is not clear whether that term includes debt interests in addition to equity interests. The Commission need not reach this issue here, because Inmarsat has achieved “substantial dilution” regardless of whether “financial interest” is limited to equity interests, or whether it includes both debt and equity interests. Thus, the following analysis describes the ownership of both debt and equity interests in Inmarsat.

The capitalization of Inmarsat consists of approximately \$1.833 Billion (US) of funded debt and contributed equity.¹⁴ Approximately \$555.2 Million of this is comprised of contributed equity in the form of Class A and Class B ordinary shares (approximately \$34.5 Million), and of debt in the form of subordinated preference certificates (“SPCs”) (approximately \$520.7 Million).¹⁵ The SPCs are “stapled” to the Class B ordinary shares, and cannot be transferred apart from those ordinary shares. Some current or previous Inmarsat directors, officers and employees, and an employee benefit trust, own the Class A ordinary shares. Funds advised by Apax Partners, funds advised by Permira, certain former signatories, certain previous Inmarsat directors, and certain current Inmarsat employees, own the Class B ordinary shares and the SPCs. Approximately \$800 Million of the capitalization consists of indebtedness for money borrowed under a \$975 Million bank credit facility.¹⁶ And approximately \$477.5 Million of the capitalization consists of indebtedness under bonds that were placed with Non-signatory institutional investors and that are now publicly tradable. On November 9, 2004, Inmarsat commenced a new bond offering which priced \$301 Million of additional bonds, the net proceeds of which will be used to redeem a portion of the SPCs, on a pro-rata basis.¹⁷

¹³ ORBIT Act at § 621(5)(G).

¹⁴ See Attachment A.

¹⁵ This analysis (i) values the equity interests at the amount contributed for those interests in December 2003, and (ii) values the SPCs (also known as deep discount bonds) at their highly discounted issue price in December 2003. The SPCs were issued in Euros and have been converted into Dollars on Attachment D based on an exchange rate of 1.2332 Dollars/Euro as of the issue date. Because the Dollar has weakened since December 2003, the value of the SPCs would be greater than stated herein if they were converted based on the November 6, 2004 exchange rate of 1.2962, for example.

¹⁶ Inmarsat intends to pay down \$62.5 Million of this indebtedness in the near future.

¹⁷ As with its existing bonds, Inmarsat expects that the new bonds initially would be placed with Non-signatory institutional investors, listed for trading on the Luxembourg Stock Exchange, and subsequently exchanged for virtually identical securities in a registered offering in the United States. Inmarsat expects to close the bond offering within the next few weeks.

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The amounts of debt and equity interests held in Inmarsat by Non-signatories are as follows. Of the Inmarsat ordinary shares, approximately 57.46% is owned by Non-signatories, with the remainder, approximately 42.54%, held by former signatories.¹⁸ Attachment C provides a summary of the historical transfers of equity interests in Inmarsat that occurred from April 15, 1999, when Inmarsat privatized by transferring its business from an IGO to a private corporation, until November 1, 2004. Of the Inmarsat SPCs, approximately 54.89% is held by Non-signatories, with the remainder, approximately 45.11%, held by former signatories.¹⁹ One hundred percent (100%) of the indebtedness under the Inmarsat bank credit facility is held by institutional entities who are Non-signatories. To the best of Inmarsat's knowledge, all of the Inmarsat bonds are held by institutional entities who are Non-signatories.²⁰

This information confirms that at least 50% of the combined debt and equity interests in Inmarsat is currently held by Non-signatories:

Equity or Debt Interest in Inmarsat	Amount (\$ Millions)
Equity Held by Non-signatories (57.46%)	19.7
SPCs Held by Non-signatories (54.89%)	285.8
Bank Debt Held by Non-signatories (100%)	800.0
Bonds Held by Non-signatories (100%)	477.5
Subtotal:	1,583.0

¹⁸ See Attachment B.

¹⁹ See Attachment D. The Non-signatories hold a smaller percentage of SPCs than their percentage holdings of equity because certain Non-signatories hold only Class A shares and do not hold any SPCs.

²⁰ All of Inmarsat's \$477.5 Million of bonds were initially placed with Non-signatory institutional investors. Inmarsat's issuance of \$301 Million of new bonds also will be held by Non-signatory institutional investors. Because the existing Inmarsat bonds are publicly traded, and the new bonds also will become publicly traded, it will not be possible to ascertain definitively who holds all of them at any given time. However, to the best of Inmarsat's knowledge, no former signatory holds any such bonds today, and Inmarsat believes it extremely unlikely that any former signatory owns or would own any significant amount of these bonds, if it owns any. It is not necessary to inquire further into ownership of the bonds, because more than 50% of the total capital structure (equity alone or debt and equity) of Inmarsat is held by Non-signatories, even without taking into account the current ownership of the \$477.5 Million of outstanding bonds or the issuance of \$301 Million of additional bonds.

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Dividing this subtotal by the total capitalization of Inmarsat, \$1.833 Billion, shows that at least 86% of the total capital contributed to Inmarsat is represented by debt and equity interests held by Non-signatories. It is clear that 86% represents "substantial dilution" of the aggregate financial interests of signatories and former signatories, as defined by the ORBIT Act.

B. No Signatories or Former Signatories That Retain a Financial Interest in Inmarsat, Together or Individually, Possess Effective Control Over Inmarsat

Effective control of Inmarsat is vested exclusively in funds advised by Apax Partners and funds advised by Permira. As explained above, Inmarsat Group Holdings is the ultimate parent company of all of the Inmarsat entities, including Inmarsat Ventures Limited, Inmarsat Investments Limited, Inmarsat Group Limited and Inmarsat Limited.²¹ Control of Inmarsat Group Holdings, therefore, provides control of the business of Inmarsat in its entirety. Funds advised by Apax Partners and funds advised by Permira control Inmarsat Group Holdings through (1) their majority voting interest as shareholders of Inmarsat Group Holdings, (2) the terms of the Shareholders' Agreement among Inmarsat Group Holdings' shareholders, (3) their current representation on the board of directors of Inmarsat Group Holdings, (4) their ability to increase the size of the board (there is no maximum number of directors) and to control the appointment and removal of all directors (except those selected by the other 10% or greater shareholders), and (5) the lack of means to undermine their control (e.g., absence of supermajority voting provisions that operate in favor of other shareholders). Hence, the funds advised by Apax Partners and funds advised by Permira are able to control Inmarsat, and the former Inmarsat signatories no longer are able to do so.

1. Distribution of Inmarsat Group Holdings Voting Power

As discussed above, funds advised by Apax Partners and funds advised by Permira each hold ownership and voting interests of 25.87% in Inmarsat Group Holdings, for a combined 51.75% voting interest. Only three former signatories hold interests exceeding 5% in Inmarsat Group Holdings: Telenor (14.95%), COMSAT (13.96%), and KDDI (7.55%). Twelve other former signatories hold various smaller interests that aggregate to 6.08%.²² Additionally, 5.70% of the voting interests is held by certain current or previous Inmarsat directors, officers,

²¹ A chart describing the post-acquisition corporate structure of Inmarsat is appended hereto as Attachment A.

²² No former signatory of Inmarsat is an investor in the funds advised by Apax Partners or the funds advised by Permira that own shares in Inmarsat Group Holdings. In the interest of full disclosure, however, Inmarsat notes that one foreign limited partner investor in one of the Apax Partners' funds is a pension fund of a former signatory. Five other limited partners in certain of the Apax Partners and Permira funds are foreign governments that have invested in these funds through different legal entities than their respective former signatories.

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and employees, and an employee benefit trust. These details are set forth in the following table:²³

Shareholder	Voting Interest in Inmarsat Group Holdings
Apax Partners funds	25.87
Permira funds	25.87
Telenor	14.95
COMSAT	13.96
KDDI	7.55
Other former signatories	6.08
Certain current or previous directors, officers and employees and an employee benefit trust	5.70 ²⁴
TOTAL:	100%

This clearly illustrates the voting control of funds advised by Apax Partners and funds advised by Permira. As discussed more fully below, this majority voting interest in Inmarsat Group Holdings, together with the terms of the Shareholders' Agreement, provides funds advised by Apax Partners and funds advised by Permira with the ability to control the size and composition of Inmarsat Group Holdings' board of directors (excluding those selected by the other 10% or greater shareholders) and to control the business of Inmarsat. Correspondingly, it precludes former signatories from doing so.

2. Shareholders' Agreement

On October 16, 2003, Inmarsat Group Holdings and its subsidiaries, funds advised by Apax Partners and funds advised by Permira, and certain Inmarsat director and management investors, entered into a shareholders agreement (the "Shareholders' Agreement").²⁵ As a general matter, the Shareholders' Agreement includes provisions relating to, among other things, (1) the composition of the board of directors of Inmarsat Group Holdings (§ 6), (2) the procedures for management and governance of Inmarsat Group Holdings (§§ 8, 13, Schedule 6), (3) the rights and obligations of each investor in Inmarsat Group Holdings (§§ 4-16), (4) the conditions under which a public or private sale of all or part of Inmarsat Group Holdings or any of its subsidiaries may take place (§ 15, Schedule 8), and (5) the conditions

²³ See also Attachment B.

²⁴ Certain former directors and certain current employees also hold, in the aggregate, an interest of approximately 0.01%.

²⁵ The Shareholders' Agreement is attached hereto as Attachment E.

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under which transfers of shares of Inmarsat Group Holdings and its subsidiaries may take place (§ 15, Schedule 6, Schedule 9).

In particular, each of the acts specified in Schedule 6 to the Shareholders' Agreement²⁶ (with limited exceptions specified therein) that affect Inmarsat's business requires the prior written consent of both the funds advised by Apax Partners and the funds advised by Permira, including:

- any variation, increase, consolidation, or other alteration of Inmarsat's authorized or issued share or loan capital, or any amendment or waiver of the rights attached thereto, except as permitted by the Shareholders' Agreement, the finance documents, the subordinated preference certificates instrument or the governing documents relating to such share or loan capital (Item 1);
- any alteration to Inmarsat's governing documents (Item 2);
- the taking of steps to wind up, dissolve, obtain an administration order, appoint a receiver, enter into voluntary liquidation or any similar step with respect to Inmarsat (Item 4);
- any major disposal or acquisition by Inmarsat with a value of over £500,000 (Item 5);
- any material change to the nature of Inmarsat's business (Item 6);
- the amalgamation, demerger, merger, corporate reconstruction or consolidation of any of Inmarsat (Item 8);
- the appointment or removal of any Inmarsat director not appointed by a 10% or greater shareholder or of any officer of Inmarsat (Item 11);
- the appointment or termination of any Inmarsat employee whose base salary exceeds £100,000 (Item 13);
- any amendment, modification or waiver to any of Inmarsat's finance documents (Item 18);
- any capital expenditure by Inmarsat exceeding \$5 million (Item 19);
- entering into any agreement by Inmarsat outside of the ordinary and normal course of business or otherwise than at arm's length (Item 20);
- any amendment to or surrender of the terms of any of Inmarsat's material contract (Item 21);
- the entry into any partnership or joint venture arrangement by Inmarsat (Item 25);

²⁶ The schedule referenced in Section 8 of the Shareholders' Agreement as "Schedule 5" is actually labeled as "Schedule 6" in the Schedules to that agreement.

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- the entry into any agreement restricting Inmarsat's freedom to do business (Item 26); and
- the creation of any encumbrance or guarantee of any of Inmarsat's assets or the giving of any guarantee, indemnity or security (Item 27).

In accordance with Section 8.5 of the Shareholders' Agreement, these consent requirements remain in place as long as funds advised by Apax Partners and funds advised by Permira hold a majority of the outstanding shares of Inmarsat Group Holdings. These consent requirements do not apply if the matter at issue has been approved by the Chief Executive Officer of Inmarsat Group Holdings, to the extent that such approval is within the scope of the authority delegated to him by Inmarsat Group Holdings' board of directors. Because Apax Partners and Permira can control the size and composition of Inmarsat Group Holdings' board (excluding those directors selected by the other 10% or greater shareholders), this provision simply reaffirms the effective control over Inmarsat that is vested in funds advised by Apax Partners and funds advised by Permira.

3. Control of the Inmarsat Group Holdings Board of Directors

Through their majority shareholding and the terms of the Shareholders' Agreement, funds advised by Apax Partners and funds advised by Permira are able to control the composition and size of Inmarsat Group Holdings' board of directors, with the exception of the selection of two directors that are selected by the other 10% or greater shareholders. Currently, the board of directors consists of seven members whose names and positions are set forth below:

Name	Position
Andrew Sukawaty	Chairman, Executive Director
Michael Butler	Executive Director
Richard Medlock	Executive Director
Richard Wilson	Non-executive Director
Graham Wrigley	Non-executive Director
Bjarne Aamodt	Non-executive Director
David Preiss	Non-executive Director

Funds advised by Apax Partners and funds advised by Permira effectively can control the appointment and removal of five of these seven directors. This control is provided by the terms of the Inmarsat Group Holdings articles of association (the "Articles of Association") and the Shareholders' Agreement. As set forth in the Articles of Association, for so long as funds advised by Apax Partners or funds advised by Permira hold 10% or more of the issued share capital of Inmarsat Group Holdings, each of those entities is entitled to appoint and to

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remove one non-executive director of its choosing.²⁷ Graham Wrigley and Richard Wilson have been appointed to the Inmarsat Group Holdings board as non-executive directors by funds advised by Permira and funds advised by Apax Partners, respectively. Furthermore, any other investor holding 10% or more of the issued share capital of Inmarsat Group Holdings is entitled to appoint and to remove one non-executive director of its choosing.²⁸ At this time, Telenor and COMSAT each hold in excess of 10% of the issued share capital of Inmarsat Group Holdings and they are thereby entitled to appoint and to remove one non-executive director each of their choosing. Bjarne Aamodt and David Preiss have been appointed to the Inmarsat Group Holdings board as non-executive directors by Telenor and COMSAT, respectively.

As for the remaining directors, under the Articles of Association, any holder or holders of more than half of the shares of Inmarsat Group Holdings may, at any time and from time to time, appoint any person to be a director or remove any director of the company, with the exception of the four directors discussed above.²⁹ In other words, as a result of their combined holding of 51.75% of Inmarsat Group Holdings, funds advised by Apax Partners and funds advised by Permira have the ability to appoint and to remove any number of additional directors. Moreover, pursuant to the Shareholders' Agreement, the prior written consent of the funds advised by Apax Partners and the funds advised by Permira is required to appoint or to remove any director of Inmarsat other than those appointed by 10% or greater shareholders.³⁰ In accordance with these provisions, Andrew Sukawaty and Michael Butler each joined the board in December 2003 and Richard Medlock joined the board in September 2004. Thus, the funds advised by Apax Partners and funds advised by Permira are able to control the appointment and removal of five of the seven current directors of Inmarsat Group Holdings.

Finally, under the Articles of Association, Inmarsat Group Holdings must have at least one director, but it is not subject to any maximum number of directors, unless otherwise determined by ordinary resolution of the shareholders.³¹ Given the ability of funds advised by Apax Partners and funds advised by Permira to appoint or to remove any number of directors at any time (excluding those selected by the other 10% or greater shareholders), and their ability to control the vote of any ordinary resolution of the shareholders, those entities are capable of adjusting the board's size as necessary to effectuate their control over Inmarsat. Said differently, funds advised by Apax Partners and funds advised by Permira can control the size and composition of Inmarsat Group Holdings' board by appointing additional directors of their choosing at any time and blocking the appointment of additional directors, in their sole discretion (excluding those selected by the other 10% or greater shareholders).

²⁷ Articles of Association at §§ 12.1-12.4 (attached hereto as Attachment F).

²⁸ *Id.* at § 12.5.

²⁹ *Id.* at § 37.5.

³⁰ Shareholders' Agreement at § 8 and Schedule 6, Item 11.

³¹ *See* Articles of Association at § 32. No resolution limiting the number of directors has been adopted.

4. Former Signatories Do Not Have Negative Control

As discussed above, their possession of over 50% of the voting power, the terms of the Shareholders' Agreement, and their control over the size and composition of the Inmarsat Group Holdings' board, provide funds advised by Apax Partners and funds advised by Permira with effective control over the business of Inmarsat. Former signatories that retain a financial interest in Inmarsat lack the means to usurp this control or otherwise exercise control over the business of Inmarsat. Thus, no former signatories that hold such an interest possess, individually or together, effective control the business of Inmarsat.³²

Under English Company Law, a simple majority decides questions or issues arising at a meeting of the shareholders, except for extraordinary matters such as amending the company's charter documents. Under the Articles of Association, a simple majority decides questions or issues arising at a meeting of the board of directors.³³ Funds advised by Apax Partners and funds advised by Permira hold a majority of the share capital of Inmarsat Group Holdings, and therefore control any ordinary resolution of the shareholders. However, the Shareholders' Agreement and the Articles of Association provide typical "minority rights" protections for the remaining shareholders. For example, more than a simple majority shareholder vote, and/or the consent of those directors appointed by 10% or greater shareholders, is required for the following types of matters:

- amending the Articles of Association;³⁴
- amending the Shareholders' Agreement;³⁵
- shortening the notice period for calling a board meeting, or changing the venue for a board meeting;³⁶
- varying or abrogating the rights of a class of shares;³⁷
- restructuring Inmarsat by transferring the shares of Inmarsat Group Holdings to a new holding company or conducting an IPO of equity securities through such a new holding company;³⁸

³² ORBIT Act at § 621(5)(F)(i)(II).

³³ Articles of Association at § 39.1.

³⁴ Articles of Association at § 53; Shareholders' Agreement at § 9.25.

³⁵ Shareholders' Agreement at § 9.2.

³⁶ Articles of Association at § 39.3; Shareholders' Agreement at § 13.3.

³⁷ Articles of Association at § 19.1; Shareholders' Agreement at § 9.2.

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- entering into certain significant transactions that are proposed before December 2006;³⁹ or
- entering into certain contracts or arrangements with Apax Partners or Permira.⁴⁰

These limited minority protections in no way provide former signatories with effective control of Inmarsat.⁴¹

The funds advised by Apax Partners and the funds advised by Permira control the employment of Inmarsat's officers and key employees. Pursuant to the Shareholders' Agreement, Inmarsat Group Holdings must receive the prior written consent of both funds advised by Apax Partners and funds advised by Permira in order to (i) appoint or remove any officer of Inmarsat or (ii) appoint or terminate any employee whose base salary exceeds £100,000.⁴² Moreover, as explained above, funds advised by Apax Partners and funds advised by Permira control the size and composition of Inmarsat Group Holdings' board, and therefore have a separate basis to control the selection of Inmarsat's officers. These provisions and powers provide the funds advised by Apax Partners and the funds advised by Permira with control over Inmarsat's officers and key employees.

The Commission already has found that Inmarsat has satisfied the ORBIT Act requirement set forth in Section 621(5)(D) which prohibits officers or managers of Inmarsat from also being officers or managers of a former signatory.⁴³ Moreover, to the best of its knowledge,

³⁸ Shareholders' Agreement at §§ 15.4.1(b), 15.6. Section 15.1 of the Shareholders' Agreement otherwise allows the funds advised by Apax Partners and the funds advised Permira to determine the timing and terms of an IPO of equity securities.

³⁹ Articles of Association at § 39.9. Section 15.7 of the Shareholders' Agreement requires that this provision be included in the charter documents of any Inmarsat entity that conducts an equity IPO before December 2006, unless the 10% or greater shareholders consent to an IPO without this provision continuing in effect.

⁴⁰ Shareholders' Agreement at § 8.4.

⁴¹ Section 29.2(d) of the Articles of Association allows shareholders holding at least 95% of the vote to call an extraordinary meeting of the board on notice shorter than 14 days. Given the voting power held by both funds advised by Apax Partners and funds advised by Permira, these entities can block this method of calling an extraordinary meeting. Otherwise, extraordinary meetings can be called on 14 days' notice.

⁴² Shareholders' Agreement at Section 8 & Schedule 6, Items 11 and 13.

⁴³ See *Market Access Order* at 21,689-21,690, 21,694 (¶¶ 47, 58).

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none of Inmarsat's officers or key employees has a material relationship with any former signatory who has a financial interest in Inmarsat.⁴⁴

C No Intergovernmental Organization Has More Than A Minimal Ownership Interest in Inmarsat

The third and final requirement of Section 621(5)(F)(i) is that "no intergovernmental organization has...more than a minimal ownership interest in a successor entity of Inmarsat."⁴⁵ This requirement is identical to the requirement set forth in Section 621(2)(B), which the Commission addressed in the *Market Access Order*.⁴⁶ In that order, the Commission reviewed the sole ownership interest in Inmarsat held by an intergovernmental organization and determined that it is "minimal ownership" within the meaning of the Act.⁴⁷

The International Mobile Satellite Organization ("IMSO") is the only intergovernmental organization that has any ownership interest in Inmarsat. IMSO is a residual entity left in place by the Inmarsat Assembly of Parties when the decision to privatize Inmarsat was made in early 1999.⁴⁸ IMSO's sole involvement in Inmarsat is the oversight of certain public services, mainly the continued provision of space segment capacity for the global maritime distress and safety system ("GMDSS").⁴⁹ Moreover, IMSO's ownership in Inmarsat is limited to a "special share" of Inmarsat Ventures Limited that confers neither any normal voting rights nor any rights to participate in Inmarsat's profits; it only gives IMSO the right to veto any proposals to amend those provisions of the Memorandum of Association or Articles of Association of Inmarsat Ventures Limited that relate to Inmarsat's public service obligations, especially GMDSS.⁵⁰

Having reviewed these facts, the Commission concluded:

⁴⁴ The Commission has previously approved the *de minimis* financial interests in former signatories held by certain Inmarsat officers and managers. See *In the Matter of Comsat Corporation d/b/a Comsat Mobile Communications, et al.*, 17 FCC Rcd 13,179, 13,189-13,190 (¶¶ 12, 14) (2002) (establishing the *de minimis* threshold for financial interests of Inmarsat officers and managers in former signatories).

⁴⁵ ORBIT Act at § 621(5)(F)(i)(III).

⁴⁶ *Id.* at § 621(2)(B) ("No intergovernmental organization...shall have-- (B) more than minimal ownership interest in Inmarsat or the successor or separated entities of Inmarsat."); *Market Access Order* at 21,686 (¶ 41) (although the text of paragraph 41 refers to Section 621(2)(A), the quoted language corresponds to the language of Section 621(2)(B)).

⁴⁷ *Market Access Order* at 21,686 (¶ 41).

⁴⁸ *Id.* at 21,672 (¶ 9).

⁴⁹ *Id.*

⁵⁰ *Id.* at 21,686 (¶ 41).

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No party in this proceeding has objected to the special share held by IMSO. *We find that the existence of the special share to be a 'minimal ownership' within the intent of the Act.* Moreover, the 'special share' provides a useful tool for the United States and other members of IMSO 'to preserve space segment capacity of the GMDSS' as required by Section 624(3) of the Act.⁵¹

Given the Commission's previous, express findings on this issue, Inmarsat submits that it has satisfied the third and final requirement of Section 621(5)(F)(i).

III. Conclusion

As demonstrated in this Request for Declaratory Ruling, over 50% of the financial interests in Inmarsat is held by entities other than signatories or former signatories of Inmarsat. As a result, Inmarsat has achieved substantial dilution of the aggregate financial interest of Inmarsat signatories and former Inmarsat signatories. Moreover, effective control of Inmarsat is vested in investment funds independently controlled by Apax Partners and by Permira that are not affiliated with any former signatory. Finally, the Commission already has decided that the sole intergovernmental organization having any interest in Inmarsat, IMSO, has only a "minimal ownership" interest as defined by the ORBIT Act. These conclusions are supported by the attached certification and the financial and other information attached hereto. Inmarsat therefore submits that it has met the requirements of Section 621(5)(F) of the Act and it respectfully requests that the Commission find that Inmarsat has fully satisfied this final ORBIT Act criterion.

Respectfully submitted,

Inmarsat Group Holdings Limited

By: 

John P. Janka

Thomas A. Allen

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Washington, D.C. 20004

(202) 637-2200

cc: Roderick K. Porter
Thomas S. Tycz
Steven Spaeth
Andrea Kelly

⁵¹ *Id.* (citations omitted; emphasis added).

CERTIFICATION OF INMARSAT GROUP HOLDINGS LIMITED

I, Andrew Sukawaty, Chairman and Chief Executive Officer for Inmarsat Group Holdings Limited (together with its subsidiaries, "Inmarsat"), declare under penalty of perjury as follows:

- (i) Inmarsat has achieved substantial dilution of the aggregate amount of former signatory financial interest in Inmarsat;
- (ii) Any signatories or former signatories that retain a financial interest in Inmarsat do not possess, together or individually, effective control of Inmarsat;
- (iii) No intergovernmental organization has more than a minimal ownership interest in Inmarsat; and,
- (iv) I have read the foregoing Request for Declaratory Ruling and the Attachments thereto. The representations contained therein are true and correct to the best of my knowledge, information, and belief.

Inmarsat Group Holdings Limited

By: 

Andrew Sukawaty
Chairman and Chief Executive Officer

Executed on: November 15, 2004

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November 15, 2004

BY HAND

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: SAT-MS-20040210-00027
Request for Declaratory Ruling

Dear Ms. Dortch:

Inmarsat Group Holdings Limited, the ultimate parent company of Inmarsat Ventures Limited (together with its subsidiaries, "Inmarsat"), hereby submits this Request for Declaratory Ruling with respect to the attached certification that Inmarsat has satisfied Section 621(5)(F)(i) of the Open-Market Reorganization for the Betterment of International Telecommunications Act (the "ORBIT Act" or the "Act").¹ On February 10, 2004, Inmarsat submitted a letter to the Commission detailing its efforts to satisfy the initial public offering ("IPO") requirement set forth in Sections 621(2) and 621(5)(A)(ii) of the ORBIT Act. At the time, the IPO requirement was the sole remaining criterion that Inmarsat needed to meet under the ORBIT Act.² However, a recent amendment to the ORBIT Act now obviates the need to meet that criterion and also moots the need to resolve the issues that certain entities raised with Inmarsat's prior showing. Instead, Inmarsat is able to satisfy the remaining criterion through an alternative means – a new certification process.

In accordance with this new certification process, Inmarsat may certify to the Commission that (i) Inmarsat has achieved substantial dilution of the aggregate amount of

¹ ORBIT Act, Pub. L. No. 106-180, 115 Stat. 48 (2000), as amended by Pub. L. No. 108-371, 118 Stat. 1752 (2004) (codified as amended in various sections of 47 U.S.C.).

² See *In the Matter of Comsat Corporation d/b/a Comsat Mobile Communications, et al.*, 16 FCC Rcd 21,661, 21,694, 21,712 (¶¶ 58, 110) (2001) (the "Market Access Order").

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signatory and former signatory financial interest in Inmarsat, (ii) any signatories or former signatories that retain a financial interest in Inmarsat do not possess, together or individually, effective control of Inmarsat, and (iii) no intergovernmental organization has more than a minimal ownership interest in Inmarsat.³ Enclosed is Inmarsat's certification that each of those conditions has been met, which Inmarsat submits along with this Request for Declaratory Ruling and the attached financial and other information, in fulfillment of the certification process. Moreover, Inmarsat respectfully requests that the Commission find that Inmarsat is in compliance with such certification and that it has met the final ORBIT Act criterion.

I. Background and Summary

The business of Inmarsat was transferred from an inter-governmental organization ("IGO") to a private corporation on April 15, 1999. The satellite assets and operations of the IGO were transferred into a new company, Inmarsat Holdings Ltd., headquartered in London, England and organized under the laws of England and Wales, which subsequently changed its name to Inmarsat Ventures.⁴ Subsequent to the privatization, several resellers of Inmarsat's services sought authorization from the Commission to provide service in the United States. In October 2001, the Commission released the *Market Access Order* in which it found that "Inmarsat's privatization is consistent with the non-IPO criteria specified in Sections 621 and 624 of the [ORBIT Act]" and that "the use of space segment operated by Inmarsat for services to, from, or within the United States will not harm competition in the telecommunications market of the United States."⁵ In granting those authorizations, the Commission conditioned its grant on a future Commission finding that "Inmarsat has conducted an IPO under Sections 621(2) and 621(5)(A)(ii) of the ORBIT Act."⁶ To this end, the Order directed Inmarsat to "file with the Commission within 30 days after conduct of its IPO a demonstration that the IPO is in compliance with Section 621(2) and 621(5)(A)(ii) of the ORBIT Act."⁷ Inmarsat made such a filing on February 10, 2004, which has not yet been acted on. As described below, that submission has been mooted by subsequent legislation.

³ As used herein, "signatories" has the same definition as that set forth in Section 681(a)(3) of the ORBIT Act.

⁴ Inmarsat Ventures was registered in the U.K. as a "plc," a public limited company, in anticipation of a public offering of securities. See *Market Access Order* at 21672 (¶ 8). As part of a U.K. court-approved takeover arrangement described below, and because Inmarsat Ventures became a wholly-owned subsidiary of Inmarsat Investments Limited, it was re-registered as Inmarsat Ventures Limited, a private company, effective as of December 17, 2003. Inmarsat Finance plc, an indirect, wholly-owned finance subsidiary of Inmarsat Group Holdings Limited, was identified instead as the Inmarsat entity to issue public securities as part of the takeover transaction.

⁵ *Id.* at 21711 (¶ 109).

⁶ *Id.* at 21712 (¶ 110).

⁷ *Id.* (¶ 111).

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A. Amendment to the ORBIT Act

On October 25, 2004, President George W. Bush signed into law an amendment to the ORBIT Act modifying the requirements of Section 621(5). Pursuant to newly added Sections 621(5)(F) and (G), Inmarsat no longer needs to have conducted an IPO. Instead, these new provisions of the ORBIT Act specify that Inmarsat alternatively may comply with a new certification process. In particular, the ORBIT Act now provides:

(F) Notwithstanding subparagraphs (A) and (B), a successor entity may be deemed a national corporation and may forgo an initial public offering and public securities listing and still achieve the purposes of this section if--

(i) the successor entity certifies to the Commission that--

(I) the successor entity has achieved substantial dilution of the aggregate amount of signatory or former signatory financial interest in such entity;

(II) any signatories and former signatories that retain a financial interest in such successor entity do not possess, together or individually, effective control of such successor entity; and

(III) no intergovernmental organization has any ownership interest in a successor entity of INTELSAT or more than a minimal ownership interest in a successor entity of Inmarsat;

(ii) the successor entity provides such financial and other information to the Commission as the Commission may require to verify such certification; and

(iii) the Commission determines, after notice and comment, that the successor entity is in compliance with such certification.

(G) For purposes of subparagraph (F), the term 'substantial dilution' means that a majority of the financial interests in the successor entity is no longer held or controlled, directly or indirectly, by signatories or former signatories.⁸

This Request for Declaratory Ruling and the attached certification and other information provide the financial and other data necessary to support the conclusion that the requirements of Section 621(5)(F) have been duly met.

B. Description of Inmarsat's Current Ownership

On December 17, 2003, a majority of the equity interests in Inmarsat were acquired by new, non-signatory shareholders in a U.K. court-approved takeover arrangement.

⁸ ORBIT Act at §§ 621(5)(F), 621(5)(G).